

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SEAN YOCUM,  
*surviving brother of LANCE A. YOCUM*  
*as Trustee Ad Litem and as*  
*Administrator of the Estate*  
*of LANCE A. YOCUM, Deceased,*  
Plaintiff,

v.

RHONDA HERMICK, R.N.,  
STEPHANIE SOMOGIE, L.P.N.,  
CASEY JENNINGS, SEAN SHIRLEY,  
JOAN BELL, ALBERT FAY,  
GERVAIS HANNON; TRINA HALL;  
COUNTY OF BEAVER d/b/a FRIENDSHIP  
RIDGE and PREMIERE HEALTHCARE  
RESOURCES,  
Defendants.

Civil Action No. 12-1530  
United States Magistrate Judge  
Cynthia Reed Eddy

**ORDER OF COURT**

On September 30, 2013, United States District Judge Terrence F. McVerry issued a Memorandum and Order (ECF No. 53) which, for the most part, overruled the Objections to this Court's Report and Recommendation (ECF No. 41), and adopted it as the Opinion of the Court. As recommended, the Court granted in part and denied in part the three pending motions to dismiss (ECF Nos. 21, 23 and 39).

Consistent with its ruling, the District Court also found that the Stipulation between Plaintiff and Premier Healthcare Resources at (ECF No. 48) (which attempted to revive Premier's Answer, New Matter and Cross-Claim Pursuant to Pa.R.C.P. 1031.1 that had been filed in state court) was "of no consequence," in light of Plaintiff's Amended Complaint. Memorandum and Order (ECF No. 53) at 11-12. In that regard, the Court's Order directed, *inter alia*, as follows:

Within 20 days of remand to the Magistrate Judge for further pretrial proceedings, Premier may file an Answer, New Matter and Cross-Claim or other responsive pleading (not a “repleading”) in compliance with the Federal Rules of Civil Procedure, particularly Fed.R.Civ.P. 7 (delineating “pleadings”), 12 (defenses, objections, motions and “responsive pleadings”), and 13 (counter and cross claims).

...  
... The case is remanded to United States Magistrate Judge Eddy for further proceedings consistent with this Memorandum Opinion. Upon remand, the Magistrate Judge may address in the first instance the County’s Motion to Dismiss Cross-Claim By Premier Healthcare Resources, Inc. Pursuant to Rule 12(b)(6) (ECF No. 49, replaced by ECF No. 51 which appears to be the same motion).

Memorandum and Order (ECF No. 53) at 12.

Accordingly, Premier’s Answer, New Matter and Cross-Claim is due on or before October 21, 2013.

Additionally, consistent with the Court’s ruling, Plaintiff’s Rule 12(b)(6) Motion to Dismiss Cross-Claim by Premier Healthcare Resources, Inc. (ECF No. 51) is DISMISSED as moot, without prejudice to Plaintiff to file a motion to dismiss the cross-claim after the cross-claim has been filed.

An initial case management conference will be scheduled by separate Order of Court.

/s Cynthia Reed Eddy  
Cynthia Reed Eddy  
United States Magistrate Judge

cc: all ECF registered counsel